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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2008 APR 28 PM 12: 19

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BY ____ DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Felipe HERNANDEZ-Cruz,** Defendant	Magistrate Docket No. '08 MJ 1315 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **April 25, 2008** within the Southern District of California, defendant, **Felipe HERNANDEZ-Cruz,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **28th** DAY OF **APRIL, 2008**

Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Felipe HERNANDEZ-Cruz

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On April 25, 2008 Border Patrol Agent J. Glance was performing line watch duties in the Imperial Beach Border Patrol Station area of operations. At approximately 2:50 p.m., a seismic sensor activated in an area known as "Echo 4" and Agent Glance responded to the area. This area is located approximately 200 yards north of the United States/Mexico International Boundary Fence and one and a half miles east of the San Ysidro, California Port of Entry. This area is commonly used by undocumented aliens attempting to further their illegal entry into the United States. Due to the remoteness of this area, it is also frequently used by alien smugglers attempting to guide undocumented aliens into the United States afoot.

After a brief search of the area, Agent Glance encountered four subjects attempting to conceal themselves in dense brush. Due to the close proximity to the Untied States/Mexico International Boundary Fence, and the areas notoriety for alien foot traffic, Agent Glance identified himself as a United States Border Patrol Agent in both the English and Spanish language and questioned each subject as to their citizenship and immigration status. Each subject, including one later identified as the defendant **Felipe HERNANDEZ-Cruz**, freely admitted to being citizens and nationals of Mexico not in possession of any immigration documents which would allow them to enter or remain in the United States legally. At 2:55 p.m., Agent Glance placed the four subjects under arrest, including the defendant and transported them to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **August 17, 2007** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read his Miranda rights, which he acknowledged and was willing to make a statement without an attorney present. The defendant stated that he was a citizen and national of Mexico without valid immigration documents to enter or remain within the United States legally. The defendant stated that he was headed to Las Vegas, Nevada to work.

Executed on April 26, 2008 at 9:00 a.m.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **1** page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **April 25, 2008**, in violation of Title **8**, United States Code, Section **1326**.

Nita L. Stormes
United States Magistrate Judge

4-26-08 @ 12:40PM
Date/Time